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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,144	03/24/2004	Vincent Mascio	601194-2US	5278

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EXAMINER

LAYNO, BENJAMIN

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,144

Applicant(s)

MASCIO, VINCENT

Examiner

Benjamin H. Layno

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 11-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see amendment, filed 4/26/06, with respect to the rejection(s) of claim(s) 11-18 and 20 under 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lofink et al in view of (Hall and Saruwatari).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lofink et al. in view of (Hall and Saruwatari).

The patent to Lofink et al. discloses the well known Blackjack game, Spanish 21. Lofink (Spanish 21) including one or more conventional decks of cards, each having a plurality of individual playing cards, each of the individual playing cards having a back, a face, a face suit including one of Hearts, Diamonds, Clubs and Spades, and an associated face value including one of two, three, four, five, six, seven, eight, nine, ten, Jack, Queen, King and Ace, col. 4, line 62 to col. 5, line 6. **Lofink further includes the**

steps of removing all cards having face value of ten from one or more conventional decks of cards (see abstract). Lofink et al. also includes the steps of permitting each player to surrender after receiving two cards in exchange for one-half of the respective player's wager, col. 4, lines 6-9, requiring the dealer to take another card when the dealer has a combination of cards forming soft seventeen, col. 4, lines 1-2, and requiring the dealer to stand when the dealer has a combination of cards forming soft seventeen, col. 4, lines 4-5. Lofink et al. also discloses the step that a player may place a second wager (Double Down wager) that is separate from the first wager, col. 3, lines 40-47.

The only step recited in claims 11-18 and 20 that Lofink lacks is "paying each player having blackjack two times (two-to-one) the respective player's wager if the dealer does not have blackjack" and "paying each player having blackjack in the respective player's first hand two times the respective player's first wager when the dealer's face-up card in the dealer's first hand is not an Ace, Jack, Queen or King".

Lofink discloses that the **"elimination of the ten-spot cards tips the odds of the game towards the house.** To make up for this difference and keep the game attractive to the players the method of play is modified to provide liberal game rules and bonus on the player's hand.....The bonus payouts include paying a bonus to a player if the player's first two cards are Blackjack regardless of the numerical count of the dealers two cards", see abstract and **see Lofink's rule modification 1), col. 3, lines 27-32.**

The patent to Hall discloses blackjack games where conventional blackjack rules are altered giving an extra edge to the casino. To compensate for this extra edge given to the casino other player-beneficial rules can be added within the game, to allow the casino edge to reduce overall to a similar edge found in regular Blackjack. Examples, such as **paying higher than normal odds for Blackjacks**", see paragraph [0004].

The patent to Saruwatari teaches that it is well known in blackjack **to reward a player having blackjack at a rate of 2:1**, col. 1, lines 36-37.

In view of such teachings, it would have been obvious to modify Lofink's rule modification 1), col. 3, lines 27-32 of Lofink, by requiring that players having Blackjack be paid two times the respective player's wager. This modification would have given players the perception of increased player advantage, thus making Lofink's game more exciting to play. Determining exactly under what circumstances a player having Blackjack is to be paid two times the respective player's wager, (e.g. if the dealer also has Blackjack, if the dealer does not have Blackjack, if the dealer's face-up card in the dealer's first hand is not an Ace, Jack, Queen or King, paying the player's Blackjack hand regardless of the value dealer's hand, etc.) is simply a casino business decision dependent on relative house advantage which is always obvious in the art. Obviously, house advantage is increased by paying a player having Blackjack 2:1 only if the dealer's face-up card in the dealer's first hand is not an Ace, Jack, Queen or King. Obviously, house advantage is decreased (player advantage increased) by paying a player having Blackjack 2:1 regardless of the value dealer's hand.

Allowable Subject Matter

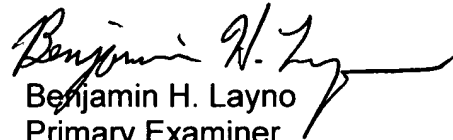
1. Claim 19 is allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: None of the cited references alone or in combination teach the steps in claim 19 of “discarding all of the player’s cards in the player’s first hand, and all of the dealer’s cards in the dealer’s first hand, except the first card dealt to the dealer, dealing one card to each player face-up, dealing another card face-up **to form a second player’s hand**”, the dealer collecting the second wager of each player having a **second hand** total face value of cards less than the dealer’s **second hand** total face value of cards.....the dealer paying out one times the second wager of each player having a **second hand** total face value of cards greater than the dealer’s **second hand** total face value....” The bold print indicates insertions by the Examiner that would make the claims more definite. Similar insertions should be made throughout claims 8, 9, 18 and 19 in order to make the claims more definite.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl